

Pertanggungjawaban hukum direksi PT Tedco Resources yang melampaui kewenangannya kepada pemegang saham dan pihak ketiga = Legal responsibility of director of PT Tedco Resources who exceeded his authority to shareholders and third party / Femmi Andarini

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Abstrak

ABSTRAK

Perseroan terbatas sebagai suatu subjek hukum mempunyai tanggung jawab yang dibatasi, sebagai subjek hukum perseroan dianggap bertanggung jawab atas segala kegiatan termasuk terhadap kerugian yang ditimbulkan. Tindakan ultra vires Direksi pada dasarnya merupakan setiap tindakan yang bersifat melampaui kewenangan yang telah diberikan Direksi yang merupakan wakil perseroan dan melaksanakan pengurusan dalam merealisasikan maksud, tujuan serta kegiatan usaha perseroan. Tindakan tersebut dapat merugikan perseroan, pemegang saham dan pihak ketiga yang sangat berperan dalam menunjang kelangsungan usaha perseroan. Pokok permasalahan dalam penelitian ini adalah bagaimanakah pertanggungjawaban Direksi PT Tedco Resources yang melampaui kewenangannya kepada pemegang saham dan pihak ketiga. Metode penelitian ini merupakan penelitian yuridis normatif, dimana penelitian menitikberatkan pada studi kepustakaan pada data sekunder. Dari penelitian ini diperoleh kesimpulan bahwa pemegang saham maupun pihak ketiga yang dirugikan akibat tindakan Direksi PT Tedco Resources yang melampaui kewenangannya dapat meminta pertanggungjawaban dengan mengajukan mengajukan gugatan perbuatan melawan hukum ke Pengadilan Negeri. Adapun pemegang saham dapat mengajukan derivative suit berdasarkan Pasal 97 ayat (6) Undang-undang No. 40 Tahun 2007 tentang Perseroan Terbatas maupun gugatan langsung (direct suit). Sedangkan pihak ketiga yang mengalami kerugian dapat mengajukan gugatan atas dasar perbuatan melawan hukum sebagaimana ketentuan pasal 1365 KUHPdata, dimana selanjutnya untuk dapat meminta pertanggungjawaban Direksi secara pribadi diperlukan suatu pemeriksaan terlebih dahulu terhadap perseroan untuk membuktikan bahwa kerugian terjadi akibat tindakan kesalahan Direksi sebagaimana pasal 138 ayat 1 huruf (b) Undang-undang No. 40 Tahun 2007 tentang Perseroan Terbatas.

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ABSTRACT

Limited liability company as a legal subject has limited responsibilities, considered as a subject of company law are responsible for any activity including against losses incurred. Ultra vires act of the Directors is basically any action that is beyond the authority that has been granted the Directors who represent the company and carry out the maintenance in the realization of the purpose, objectives and business

activities of the company. Such actions may cause financial loss to the company, shareholders and third parties who play an important role in supporting the company's business continuity. The issue in this research is how legal responsibility of Directors of Tedco Resources which exceeded its authority to shareholders and third parties. This research method is a normative research, where research focuses on the study of literature in the secondary data. From this study, it was concluded that the shareholders or third parties harmed by the actions of PT Tedco Resources Board who exceeded his authority can compensate such loss by filing a tort lawsuit filed to the District Court. The shareholder may fill derivative suit based on Article 97 paragraph (6) of Law No. 40 of 2007 concerning Limited Liability Companies and lawsuits (direct suits). While the third party may fill a tort lawsuit to compensate their loss as the provisions of Article 1365 Civil Code, which in turn for Director to be liable fully personally, required an inspection prior to the company to prove that the loss occurred due to mistakes of Directors acts as Article 138 paragraph 1 subparagraph (b) of Act No. 40 of 2007 concerning Limited Liability Companies.